

REMARKS

Claims 1-2 are pending in the application. Claim 1 is the sole independent claim.

Information Disclosure Statement

On December 28, 2004, Applicants filed a 9-page Information Disclosure Statement ("IDS") accompanied by an 18-page substitute form PTO-1449. The Office subsequently considered the references listed on the 1449 form, and attached an initialed and signed copy of the form to the November 16, 2005 Office action.

However, the information provided in the IDS itself (particularly the litigation documents listed on pages 3-4 and 6-9 of the IDS) have not been initialed and returned to Applicants. Applicants kindly request that the Office initial this information on the IDS to evidence its consideration by the Office.

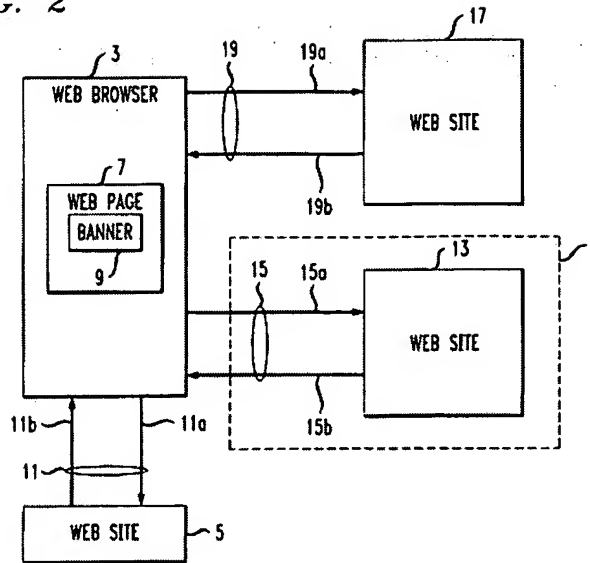
The Claims Are Not Anticipated by Wexler

The Office has rejected claims 1-2 under 35 U.S.C. § 102(e) as being anticipated by Wexler (U.S. Patent No. 5,960,409). Applicants respectfully traverse this rejection, and submit that each pending claim is patentably distinguishable over Wexler.

In order for a claim to be anticipated under 35 U.S.C. § 102, a single prior art reference must disclose, either expressly or inherently, each and every element as set forth in the claim. M.P.E.P. § 2131. Anticipation does not occur in the instant application, however, for at least the reasons that Wexler fails to disclose:

- selecting an ad "based upon stored information about said user node" as recited in independent claim 1, and
- selecting an ad "in response to said first advertising request", wherein the "first advertising request [is] based upon said first link" embedded "within content of said first affiliate web site" and which "is sent to a user node in response to a request for said content from said user node to said first affiliate web site" as recited in independent claim 1.

FIG. 2



As shown above in **FIG. 2** of Wexler, a user visits web site 5 by directing its web browser 3 to request 11a a web page 7 from the site, which in response downloads 11b the web page 7 to the user's browser 3. Note that the banner ad 9 is hard-coded into web page 7 prior to it being sent to the user (see Wexler, col. 4, lns 47-51). When the user clicks-through the ad 9, instead of the ad 9 directing the browser 3 to the ad's associated web site 17, it instead directs 15a the browser 3 to the third party system 1, which merely logs the click-through and redirects the browser's request (via 15b and 19a) to the ad's associated web site 17. The ad's web site 17 then downloads 19b its web page to the user's browser 3, completing the user's click-through of banner 9.

In the October 7, 2005 Response to Office Action, Applicants pointed out to the Examiner that the third party accounting and statistical system 1 of Wexler merely "accumulates and tabulates statistical information including the number of clicks on the advertiser's banner, and further provides data indicative of the effectiveness of the banner publisher's Web page as an advertising medium." Wexler, col. 2, lines 57-61. Since the third party system of Wexler only provides accounting and statistical information and does not select ads, it cannot anticipate independent claim 1 of the present application.

The Examiner in the Office action effectively conceded Applicants' argument (i.e., that the third party system 1 of Wexler does not select ads) by contending that it is the user in Wexler who selects an ad as claimed by clicking on an ad banner. Office action, p. 3, sec. 4.

However, the action by a user in Wexler of selecting an ad by clicking on an ad banner cannot anticipate independent claim 1. Nothing in the disclosure of Wexler teaches or suggests that a user selects an ad "based upon stored information about said user node" as recited in independent claim 1, and no teaching or suggestion of the same was provided by the Office. All Wexler discloses is a user clicking on a banner ad 9 and awaiting a web page from the web site 17 associated with the ad 9.

Further, nothing in the disclosure of Wexler teaches or suggests a user selecting an ad "in response to said first advertising request", wherein the "first advertising request [is] based upon said first link" embedded "within content of said first affiliate web site" and which "is sent to a user node in response to a request for said content from said user node to said first affiliate web site" as recited in independent claim 1. As the above description of Wexler shows, the user receives a web page 7 from a web site 5 and clicks on a banner ad 9. The user's clicking of the ad 9 is not in response to any type of advertisement request, nor an advertisement request based upon the elements recited in independent claim 1. Everything cited by the Office in Wexler occurs *after* the user clicks on the ad 9.

Thus, it is not possible for the actions of either the user or the third party system 1 of Wexler (or any combination of the two) to anticipate independent claim 1 under this rejection.

Furthermore, as dependent claim 2 depends from and further limits independent claim 1, Applicants respectfully submit that for at least the same reasons as above claim 2 also cannot be anticipated by Wexler under 35 U.S.C. § 102.

CONCLUSION

It is respectfully submitted that, in view of the foregoing remarks, the application is in clear condition for allowance. Issuance of a Notice of Allowance is earnestly solicited.

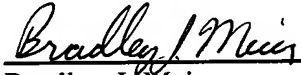
The Office is authorized to charge the three-month extension of time fee of \$1020.00 to Deposit Account No. 11-0600. A copy of this page is provided for this purpose.

Although not believed necessary, the Office is hereby authorized to charge any additional fees required under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600.

The Examiner is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,

Dated: May 16, 2006


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